

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CRIMINAL MINUTES — GENERAL**

Case No. SA CR 95-125-LHMDate February 23, 1998**DOCKET ENTRY:****PRESENT:** HON. LINDA H. McLAUGHLIN, JUDGED. Beard

Deputy Clerk

Not Present

Court Reporter

Marc Greenberg

Asst. U. S. Attorney

U. S. A. v. (DEFENDANTS LISTED BELOW)**ATTORNEYS FOR DEFENDANTS****(1)** Huu TranXX present custody XX bond O/R**(2)** present custody bond O/R**(3)** present custody bond O/R**(4)** present custody bond O/R**(1)**Mark S. AxupXX present appointed retained**(2)** present appointed retained**(3)** present appointed retained**(4)** present appointed retained**PROCEEDINGS:** SENTENCING

Cause called. Hearing held. Court confirms prior acceptance of guilty plea and now accepts plea agreement.

Defendant is sentenced to Count I of the Indictment as shown on the attached copy of Judgment and Commitment.

Defendant is advised of his appeal rights.

copies to:

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Mark S. Axup Law Office
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Sacramento, CA 95825

AUSA Marc Greenberg
Office of U.S. Attorney
600 W. Santa Ana Blvd., Ste 1100
Santa Ana, CA 92710

U.S. Probation
U.S. Marshal

Pre-Trial Services
Fiscal

Interoffice mem
I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL, POSTAGE PREPAID, TO ALL COUNSEL
(OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATED: 2/27/98D. Beard
DEPUTY CLERK

UNITED STATES OF AMERICA

SA
Docket No. CR - 95-125-LHM

VS

TRAN, HUU

2/23/98

Date

JUDGMENT AND PROBATION/COMMITMENT ORDER

Continued from Page 1

5. As directed by the Probation Officer, the defendant shall provide to the Probation Officer an accurate financial statement, with supporting documentation, as to all sources and amounts of income and all expenses of the defendant. In addition, the defendant shall provide federal and state income tax returns as requested by the Probation Officer.
6. The Defendant shall participate in a psychological counseling program, which includes counseling regarding gambling as approved and directed by the Probation Officer.

It is further ordered that the defendant shall pay to the United States a special assessment of \$50.00.

Pursuant to Government's motion, Counts 2, 3 and 4 and the Forfeiture Count are dismissed.

Bond to be exonerated upon satisfactory completion of residency at community corrections center.

Signed By: ☒ U.S. District Judge

McLaughlin
2/23/98

☐

U.S. Magistrate

SHERRI R. CARTER
LEONARD A. BROSNAN, CLERK

Dated / Filed

By

Deputy Clerk

DEFENDANT:
CASE NUMBER:

Rule 32
FINDINGS AND
STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report *and supplemental letter dated 1/20/98.*
OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 11

Criminal History Category: I

Imprisonment Range: 8 to 14 months

Supervised Release Range: 3 to 5 years

Fine Range: \$ 2,000 to \$ 20,000

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ 12,710.68

☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

☒ For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

☐ Partial restitution is ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

☐ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following specific reason(s):

See Attachment "A"

DATE: 2/23/98

Linda H. McLaughlin
LINDA H. McLAUGHLIN
UNITED STATES DISTRICT JUDGE

ATTACHMENT "A"

--1. **Probation not available.** The Probation Officer recommends a sentence of three (3) years probation with a condition of six (6) months home detention. The Government has no objection to this sentence.

However, the Sentencing Guidelines do not permit this imposition of this sentence for the following reasons:

(a) Bank Fraud is a Class B felony; Defendant is guilty of bank fraud. A sentence of probation may not be imposed if the offense of conviction is a Class B felony. U.S.S.G. 5B1.1(b)(1).

(b) The applicable guideline range is Zone C. Where the applicable guideline range is Zone C, the guidelines do not authorize a sentence of probation. U.S.S.G. 5B1.1, App. N. 2.

--2. **Sentence:** The Court will sentence closely to the unopposed recommendation, but as permitted by the Sentencing Guidelines, to wit: Three (3) years of supervised release on conditions of one (1) day of custody, which Defendant served on the day of arrest; and eight (8) months in a community confinement center (the low end of the range).